

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

tmd3574/vb  
October 28, 2009  
9:00 AM

=====X  
IN RE:

Case No. 105-34281-353

DEXTER MCKENZIE,

Hon. Jerome Feller

**NOTICE OF MOTION**

Debtor.

=====X

PLEASE TAKE NOTICE, that upon the within application, Marianne DeRosa, Chapter 13 Trustee will move this court before the Hon. Jerome Feller, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, at 271 CADMAN PLAZA EAST COURTROOM 3554 BROOKLYN, NY 11201, on the 28th day of October, 2009 at 9:00 AM, or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c)(6) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than three (3) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York  
October 13, 2009

/s/ Marianne DeRosa  
\_\_\_\_\_  
MARIANNE DeROSA, TRUSTEE  
100 JERICHO QUADRANGLE, SUITE 208  
JERICHO, NY 11753  
(516) 622-1340

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

DEXTER MCKENZIE,

Debtor.

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tmd3574/vb  
October 28, 2009  
09:00 AM

Case No: 105-34281-353

Hon. Jerome Feller

**APPLICATION**

TO THE HONORABLE Jerome Feller U.S. BANKRUPTCY JUDGE:

MARIANNE DEROSA, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor commenced this Chapter 13 case by filing a voluntary petition on October 15, 2005.
2. The current monthly plan payment amount is \$2743.00. The total amount due under the plan, through and including October, 2009 is \$134,585.74. To date, the Trustee has received \$129,099.74. Therefore, the debtor has defaulted under the terms of the plan and is \$5,486.00 in arrears to the Trustee.
3. No prior application seeking the relief requested herein has been filed by the Chapter 13 Trustee.
4. The foregoing represents a material default by the Debtors with respect to the terms of the confirmed plan and constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. Section 1307(c)(6).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an order dismissing this Chapter 13 case and such other and further relief as may seem just and proper.

Date: Jericho, New York  
October 13, 2009

/s/Marianne DeRosa  
MARIANNE DeROSA, TRUSTEE

**PAYMENT ADDRESS ONLY:**  
MARIANNE DeROSA, TRUSTEE  
PO BOX 2178  
MEMPHIS, TN 38101-2178

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 105-34281-353

DEXTER MCKENZIE,

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

-----X

This is to certify that I, Viola Basenese, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

DEXTER McKENZIE  
942 Rockaway Avenue  
Brooklyn, NY 11212

STEPHEN B. KASS  
225 Broadway; Suite 711  
New York, NY 10007

SHARON McKENZIE  
4230 Thunderstone Circle W  
Memphis, TN 38125

AMERICAN EXPRESS  
C/O BECKET & LEE  
PO Box 3001  
Malvern, PA 19355-0701

This October 13, 2009

*Viola Basenese*

Viola Basenese, Clerk  
Office of the Standing Chapter 13 Trustee  
Marianne DeRosa, Esq.  
100 Jericho Quadrangle, Suite 208  
Jericho, New York 11753  
(516) 622-1340

CASE NO: 105-34281-353

Hon. Jerome Feller

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

DEXTER MCKENZIE,

Debtor.

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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MARIANNE DeROSA, TRUSTEE  
100 JERICHO QUADRANGLE, SUITE 208  
JERICHO, NEW YORK 11753  
(516) 622-1340